

U.S. Department of Justice



Federal Bureau of Investigation

In Reply, Please Refer to  
File No.

190-0

450 Golden Gate Avenue  
Box 36015  
San Francisco, CA 94102-9523

January 30, 2002

Mr. James Lutcher Negley  
3905 Laguna Vista Cove  
Austin, Texas 78746

Dear Mr. Negley:

This is in response to your Freedom of Information Act  
- Privacy Act request received by our office January 22, 2002.

A search of the indices to the Central Records System  
for records maintained by the San Francisco Division revealed no  
record responsive to your request indicating the subject of your  
request has been the subject of an FBI investigation.

In order to respond to our many requests in a timely  
manner, our focus is to retrieve records in the indices which  
indicate the requester/subject of the request is a main subject  
of an FBI investigation. Names which are the subject of an FBI  
investigation are entered into the indices as a "main file" index  
record.

Although no main file records responsive to your  
request were located, we are required to inform you that you are  
entitled to file an administrative appeal if you so desire.  
Appeals should be directed in writing to the Co-Director, Office  
of Information and Privacy, Flag Building, Suite 570, United  
States Department of Justice, Washington, D.C. 20530, within 60  
days from receipt of this letter. The envelope and the letter  
should be clearly marked "Freedom of Information Appeal"  
"Information Appeal." Please cite the name of the office to  
which your original request was directed.

Very truly yours,

John A. Lohse  
Chief Division Counsel

Enclosure: FBI File Fact Sheet

**FILED**  
OCT 17 2003  
NANCY MAYER WHITTINGTON, CLERK  
U.S. DISTRICT COURT

FBI FILE FACT SHEET

FOR YOUR INFORMATION . . .

- The primary function of the FBI is law enforcement. The FBI does not keep a file on every citizen of the United States.
- FBI files generally contain written reports of FBI investigations of a wide range of matters, including counterterrorism, foreign counterintelligence, organized crime/drugs, violent crime, white-collar crime, applicants, and civil rights.
- The FBI does not issue clearances or nonclearances for anyone other than its own personnel or persons having access to FBI facilities. Background investigations for security clearances are conducted by many different Government agencies. If you received a clearance while you were in the military or employed with some other government agency, you should write directly to that entity.
- An FBI identification record or "rap sheet" is not the same as an FBI "file" - it is simply a listing of information taken from fingerprint cards submitted to the FBI in connection with arrests, federal employment, naturalization, or military service. IF YOU DESIRE A SEARCH OF THE FBI'S CRIMINAL JUSTICE INFORMATION SERVICES (CJIS) DIVISION RECORDS (FORMERLY KNOWN AS THE IDENTIFICATION DIVISION) FOR ANY ARREST RECORD (RAP SHEET) THAT MIGHT PERTAIN TO YOU PLEASE COMPLY WITH THE RULES AND REGULATIONS ATTACHED.

# RULES AND REGULATIONS

[Order 556-73]  
PART 16-PRODUCTION OR  
DISCLOSURE OF  
MATERIAL OR  
INFORMATION

## Subpart C-Production of FBI Identification Records in Response to Written Requests by Subjects Thereof

By order dated September 24, 1973, the Attorney General of the United States directed that the Federal Bureau of Investigation, hereinafter referred to as the FBI, publish rules for the dissemination of arrest and conviction records to the subjects of such records upon request. This order resulted from a determination that 28 U.S.C. 534 does not prohibit the subjects of arrest and conviction records from having access to those records. In accordance with the Attorney General's order, the FBI will release to the subjects of identification records copies of such records upon submission of a written request, satisfactory proof of identity of the person whose identification record is requested and a processing fee of \$18.00.

Since the FBI Identification Division is not the source of the data appearing in identification records, and obtains all data thereon from fingerprint cards or related identification forms submitted to the FBI by local, state, and Federal agencies, the responsibility for authentication and correction of such data rests upon the contributing agencies. Therefore, the rules set forth for changing, correcting or updating such data require that the subject of an identification record make application to the original contributing agency in order to correct the deficiency complained of.

The relevant provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rule making, opportunity for public participation and delay in effective date are inapplicable because the material contained herein relates to the interpretation of 28 U.S.C. 534 as allowing the granting of an exemption to subjects of identification records and relief of prior administrative restrictions on dissemination of such records to them. Furthermore, it is deemed in the public interest that there be no delay in effective date of availability of identification records to the subjects thereof.

By virtue of the order of the Attorney General, dated September 24, 1973, and pursuant to the authority

delegated to the Director, FBI by 28 CFR 0.85(b), Part 16 of 28 CFR Chapter I, is amended by adding the following new Subpart C:

### § 16.30 Purpose and scope

This subpart contains the regulations of the Federal Bureau of Investigation, hereafter referred to as the FBI, concerning procedures to be followed when the subject of an identification record requests production thereof. It also contains the procedures for obtaining any change, correction or updating of such record.

### § 16.31 Definition of identification record

An FBI identification record, often referred to as a "rap sheet", is a listing of certain information taken from fingerprint cards submitted to and retained by the FBI in connection with arrests and, in some instances, includes information taken from fingerprint cards submitted in connection with Federal employment, naturalization, or military service. The identification record includes the name of the agency or institution which submitted the fingerprint card to the FBI. If the fingerprint card concerns a criminal offense, the identification record includes the date arrested or received, the arrest charge, and the disposition of the arrest if known to the FBI. All arrest data included in an identification record are obtained from fingerprint cards, disposition reports and other reports submitted by agencies having criminal justice responsibilities. Therefore, the FBI Identification Division is not the source of the arrest data reflected on an identification record.

### § 16.32 Procedure to obtain an identification record

The subject of an identification record may obtain a copy thereof by submitting a written request via the U.S. mails directly to FBI, Identification Division, Room 10104, \* Washington, D.C. 20537-9700, or may present his/her written request in person during regular business hours to the FBI Identification Division, J. Edgar Hoover F.B.I. Building, Tenth Street and Pennsylvania Avenue, N.W., Washington, D.C. Such request must be accompanied by satisfactory proof of identity, which shall consist of name, date and place of birth and a set of rolled-linked fingerprint impressions placed upon fingerprint cards or forms

commonly utilized for applicant or law enforcement purposes by law enforcement agencies.

### § 16.33 Fee for production of identification record

Each written request for production of an identification record must be accompanied by a fee of \$18.00 in the form of a certified check or money order, payable to the Treasury of the United States. This fee is established pursuant to the provisions of 31 U.S.C. 9701 and is based upon the clerical time beyond the first quarter hour to be spent in searching for, identifying, and reproducing each identification record requested as specified in § 16.10 of this part. Any request for waiver of the fee shall accompany the original request for the identification record and shall include a claim and proof of indigence.

### § 16.34 Procedure to obtain change, correction or updating of identification records

If, after reviewing his/her identification record, the subject thereof believes that it is incorrect or incomplete in any respect and wishes changes, corrections or updating of the alleged deficiency, he/she should make application directly to the agency which contributed the questioned information. The subject of a record may also direct his/her challenge as to the accuracy or completeness of any entry on his/her record to the Assistant Director of the FBI Identification Division, Washington, \* D.C. 20537-9700. The FBI will then forward the challenge to the agency which submitted the data requesting that agency to verify or correct the challenged entry. Upon the receipt of an official communication directly from the agency which contributed the original information, the FBI Identification Division will make any changes necessary in accordance with the information supplied by that agency.

\*PLEASE NOTE NEW ADDRESS\*

FEDERAL BUREAU OF INVESTIGATION  
CRIMINAL JUSTICE INFORMATION SERVICES DIV.  
SCU MOD D2  
1000 Custer Hollow Road  
Clarksburg, WV 26306